

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

HOMeward RESIDENTIAL, INC., solely  
in its capacity as Master Servicer for the  
Option One Mortgage Loan Trust 2006-2, for  
the benefit of the Trustee and the holders of  
Option One Mortgage Loan Trust 2006-2  
Certificates,

Plaintiff,

- against -

SAND CANYON CORPORATION, f/k/a  
Option One Mortgage Corporation,

Defendant.

Index No.: 12-cv-5067 (JMF) (JLC)

**DECLARATION OF BRIAN V. OTERO, ESQ., IN SUPPORT OF PLAINTIFF'S  
MOTION TO EXCLUDE CERTAIN TESTIMONY  
FROM DEFENDANT'S EXPERTS**

I, Brian V. Otero, Esq., hereby declare that the following facts are true and correct:

1. I am a partner at Hunton Andrews Kurth LLP, and counsel for Homeward Residential, Inc., in this matter. I am over 18 years of age and have personal knowledge of the facts described in this declaration.
2. Attached hereto as Exhibit A is a true and correct copy of the Option One Mortgage Loan Trust 2006-2 Prospectus Supplement, dated as of June 23, 2006.
3. Attached hereto as Exhibit B is a true and correct copy of the Option One Mortgage Loan Trust 2006-3 Prospectus Supplement, dated as of October 19, 2006.
4. Attached hereto as Exhibit C is a true and correct copy of Exhibit 99.1 to Option One Mortgage Loan Trust 2006-3's January 3, 2007 8-K, available at [https://www.sec.gov/Archives/edgar/data/1378102/000088237707000002/p06-1920ex99\\_1.htm](https://www.sec.gov/Archives/edgar/data/1378102/000088237707000002/p06-1920ex99_1.htm).

5. Attached hereto as Exhibit D is a true and correct copy of the Mortgage Loan Purchase Agreement, Option One Mortgage Loan Trust 2006-2, dated as of June 23, 2006.

6. Attached hereto as Exhibit E is a true and correct copy of the Mortgage Loan Purchase Agreement, Option One Mortgage Loan Trust 2006-3, dated as of October 19, 2006.

7. Attached hereto as Exhibit F is a true and correct copy of the Pooling and Servicing Agreement, Option One Mortgage Loan Trust 2006-2, dated as of June 1, 2006.

8. Attached hereto as Exhibit G is a true and correct copy of the Pooling and Servicing Agreement, Option One Mortgage Loan Trust 2006-3, dated as of October 1, 2006.

9. Attached hereto as Exhibit H is a true and correct copy of the Expert Report of Joseph A. Spinelli provided in the above-captioned case, dated May 31, 2019.

10. Attached hereto as Exhibit I is a true and correct copy of the transcript of the deposition of Joseph A. Spinelli, taken September 18, 2019.

11. Attached hereto as Exhibit J is a true and correct copy of the Federal Trade Commission Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003, 15 U.S.C. § 1681 et seq., dated December 2012, available at <https://www.ftc.gov/sites/default/files/documents/reports/section-319-fair-and-accurate-credit-transactions-act-2003-fifth-interim-federal-trade-commission/130211factareport.pdf>.

12. Attached hereto as Exhibit K is a true and correct copy of excerpts from Public Report: Debtor Audits by the United States Trustee Program, Fiscal Year 2017, issued by the United States Department of Justice, Executive Office for United States Trustees, dated March 2018, available at [https://www.justice.gov/ust/file/debtor\\_audits\\_fy\\_2017\\_public\\_report.pdf](https://www.justice.gov/ust/file/debtor_audits_fy_2017_public_report.pdf)/download.

13. Attached hereto as Exhibit L is a true and correct copy the Federal Bureau of Investigation, Mortgage Fraud Report 2006, dated May 2007, available at <https://www.fbi.gov/stats-services/publications/mortgage-fraud-2006>.

14. Attached hereto as Exhibit M is a true and correct copy of an e-mail from Chuck Harkins dated December 21, 2006, provided by Sand Canyon in the litigation and bates-stamped SCC.HW1-001153964-SCC.HW1-001153965.

15. Attached hereto as Exhibit N is a true and correct copy of an e-mail from Roger Rizner, dated September 19, 2006, provided by Sand Canyon in the litigation and bates-stamped SCC.HW1-001423962-SCC.HW1-001423964.

16. Attached hereto as Exhibit O is a true and correct copy of the Expert Report of Steven L. Schwarcz provided in the above-captioned case, dated May 31, 2019.

17. Attached hereto as Exhibit P is a true and correct copy of an article entitled “Rethinking the Role of Recourse in the Sale of Financial Assets,” by Peter V. Pantalev et al., 52 Bus. Law. 159, dated November 1996, available at <https://home.heinonline.org/> (subscription required).

18. Attached hereto as Exhibit Q is a true and correct copy of the transcript of the deposition of Steven L. Schwarcz, taken August 8, 2019.

19. Attached hereto as Exhibit R is a true and correct copy of a June 29, 2006 Thacher Proffitt & Wood LLP opinion letter entitled “Opinion: Takedown” regarding the Option One Mortgage Loan Trust 2006-2, available at [https://www.sec.gov/Archives/edgar/data/1366625/000088237706002426/d524272\\_ex5-1.htm](https://www.sec.gov/Archives/edgar/data/1366625/000088237706002426/d524272_ex5-1.htm).

20. Attached hereto as Exhibit S is a true and correct copy of an October 27, 2006 Thacher Proffitt & Wood LLP opinion letter entitled “Opinion: Takedown” regarding the Option

One Mortgage Loan Trust 2006-3, available at

[https://www.sec.gov/Archives/edgar/data/1378102/000088237706003682/d577976\\_ex5.htm](https://www.sec.gov/Archives/edgar/data/1378102/000088237706003682/d577976_ex5.htm).

21. Attached hereto as Exhibit T is a true and correct copy of the S&P/Case-Shiller U.S. National Home Price Index from 2005-2019, available at [https://fred.stlouisfed.org/series/CSUSHPINSA?utm\\_source=series\\_page&utm\\_medium=related\\_content&utm\\_term=related\\_resources&utm\\_campaign=categories](https://fred.stlouisfed.org/series/CSUSHPINSA?utm_source=series_page&utm_medium=related_content&utm_term=related_resources&utm_campaign=categories) (graph start date of Jan. 1, 2005).

22. Attached hereto as Exhibit U is a true and correct copy of the transcript of the 30(b)(6) deposition of Mary St. George, taken March 7, 2018.

23. Attached hereto as Exhibit V is a true and correct copy of excerpts from JPMorgan Chase & Co.'s Form 10-K for the year ending December 31, 2011, available at <https://www.sec.gov/Archives/edgar/data/19617/000001961712000163/corp10k2011.htm>.

24. Attached hereto as Exhibit W is a true and correct copy of excerpts from Fannie Mae's Single-Family Servicing Guide, dated November 13, 2019, available at <https://www.fanniemae.com/content/guide/servicing/index.html>.

25. Attached hereto as Exhibit X is a true and correct copy of the Curriculum Vitae of Steven L. Schwarcz, which was attached as Appendix A to the Expert Report of Steven L. Schwarcz in the above-captioned case.

26. Attached hereto as Exhibit Y is a true and correct copy of the Expert Report of Brian Olosov provided in the above-captioned case, dated May 31, 2019.

27. Attached hereto as Exhibit Z is a true and correct copy of the transcript of the deposition of Brian Olosov, taken August 30, 2019.

28. Attached hereto as Exhibit AA is a true and correct copy of the transcript of the deposition of Walter Torous, PhD, taken September 20, 2019.

29. Attached hereto as Exhibit BB are true and correct copies of excerpts from Exhibit C and Exhibits G-J to the Expert Report of Brian Olasov provided in the above-captioned case.

30. Attached hereto as Exhibit CC is a true and correct copy of the Appraisal Standards Board, Uniform Standards of Professional Appraisal Practice Q&A, dated June 10, 2011, available at <https://appraiser.ne.gov/uspap/pdf/June%202011%20QA.pdf>.

31. Attached hereto as Exhibit DD is a true and correct copy of the Fannie Mae Selling Guide, Section B4-1.3-08, dated December 4, 2019, available at <https://www.fanniemae.com/content/guide/selling/b4/1.3/08.html>.

32. Attached hereto as Exhibit EE is a true and correct copy of a Federal Housing Finance Agency Mortgage Market Note 12-01, "A Primer on Price Discount of Real Estate Owned (REO) Properties," available at <https://www.fhfa.gov/PolicyProgramsResearch/Research/Pages/Mortgage-Market-Note-12-01.aspx>.

33. Attached hereto as Exhibit FF is a true and correct copy of an article entitled "Faulty Appraisals Kills Banks," by Brian Olasov and KC Conway, dated December 29, 2011, in American Banker, available at <https://www.americanbanker.com/opinion/faulty-appraisals-kill-banks>.

34. Attached hereto as Exhibit GG is a true and correct copy of a document from the Option One Mortgage Online Library entitled "Appraisal Option Program," dated April 11,

2007, provided by Sand Canyon in the litigation and bates-stamped SCC.HW1-000994124-SCC.HW1-000994126.

35. Attached hereto as Exhibit HH is a true and correct copy of the transcript of the deposition of Mark Linné, taken August 28, 2019.

36. Attached hereto as Exhibit II is a true and correct copy of the Expert Report of Walter Torous, PhD, provided in the above-captioned case, dated May 31, 2019.

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct. Executed on this 6th day of December, 2019.

/s/ Brian V. Otero  
Brian V. Otero

**CERTIFICATE OF SERVICE**

I hereby certify that on this 6th day of December, 2019, I served a copy of the foregoing on all counsel of record registered with the Court's ECF system, by electronic service via the Court's ECF transmission facilities and by email.

/s/ Brian V. Otero  
Brian V. Otero